

**CALENDAR ITEM
C40**

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04/20/17
PRC 7110.1
J. Holt

ASSIGNMENT AND REVISION OF RENT

ASSIGNOR:

PACK, LLC - Series B, a Delaware Limited Liability Company

APPLICANT/ASSIGNEE:

PACK LLC SERIES C

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the historic bed of the San Joaquin River, adjacent to 2013 Cove Court, Atherton Cove, city of Stockton, San Joaquin County.

AUTHORIZED USE:

Continued use and maintenance of an existing floating boat dock with lift, dock extension, ramp, single jet-ski float, double jet-ski float, redwood deck, bulkhead with fill, and bank protection.

LEASE TERM:

10 years, beginning May 24, 2012.

CONSIDERATION:

This lease provides that the Commission may modify the rent periodically during the lease term. Pursuant to this provision, staff conducted a review of the rent under this lease, and recommends rent be revised from \$2,101 to \$1,027 per year, effective May 24, 2017.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5;
California Code of Regulations, title 2, section 2000, subdivision (b).

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Public Trust and State's Best Interests Analysis:

On May 24, 2012, the Commission authorized issuance of a General Lease – Recreational and Protective Structure Use to PACK, LLC - Series B, a Delaware Limited Liability Company, for an existing floating boat dock with lift, dock extension, ramp, single jet-ski float, double jet-ski float, redwood deck, bulkhead with fill, and bank protection on the San Joaquin River ([Calendar Item C45, May 24, 2012](#)). This lease will expire on May 23, 2022. On June 26, 2014, ownership of the upland parcel was deeded to PACK LLC SERIES C. The Applicant is now applying for an assignment of lease. This assignment is to accommodate a change in business structure. The business remains under the leadership of Charles G. Patmon III.

In conjunction with this assignment, Commission staff performed a rent review, as directed by lease terms and conditions. This action aligned with the lease's fifth anniversary date. Based on this review, Staff recommends the rent be revised from \$2,101 to \$1,027 per year, effective May 24, 2017, based on the application of the updated benchmark and utility value of the land being leased.

The current lease is for a fixed facility for the docking and mooring of boats. Recreational boating has been found by California courts to be a use generally consistent with the common law Public Trust Doctrine. The subject structures are privately owned and maintained. The lease includes certain provisions protecting the public use of the property, including a lease term limited to 10 years, a non-exclusive use provision, and a reservation to the people of the State of an easement for access to and across the lease area. The subject facilities have existed for many years at this location and do not create a significant alteration of the land or permanent severance of State resources or public rights. The proposed assignment will not result in a change of public resource usage or the impacts thereto. The leased facilities are consistent with the design of other similar facilities in the area, consistent with local design standards, and not larger than necessary to accomplish the intended purpose. Upon termination of the lease, the lessee may be required to remove all improvements and restore the lease premises to its original conditions. Based on the foregoing, Commission staff believes that the dock will not substantially interfere with Public Trust needs at this time and at this location.

The assigned lease requires the lessee to insure the lease premises and indemnify the state for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent into

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the state's general fund to compensate the people of the state for the use of the public land involved.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The facilities within the proposed lease area are located on the San Joaquin River, at a tidally-influenced site vulnerable to flooding at current sea levels that will be at a higher risk of flood exposure given future projection scenarios of sea-level rise. The facilities associated in this lease area include an existing floating boat dock with lift, dock extension, ramp, jet-ski floats, redwood deck, bulkhead with fill; and bank protection in the San Joaquin River. Based on projections, sea-level rise coupled with other dynamic coastal processes and events such as scour, erosion, extreme tides, and storm surge could pose increased flooding risks to the lease area.

By 2030, the coastal region could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). These changes in sea level could lead to changes in the regular inundation levels within the lease area. Rising sea levels can lead to more frequent flooding in low lying areas and more dynamic tidal events. As stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise).

In rivers and tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow, as well as runoff, will likely increase scour and decreasing bank stability at a faster rate.

The lease is a 10-year General Lease – Recreational and Protective Structure Use that began on May 24, 2012, and may be subject to the climate change effects of the projected scenario of 1 foot of sea-level rise (from year 2000 levels) by 2030 provided above. Regular maintenance and implementing best management practices, as required by the terms of the lease, will help reduce the likelihood of severe structural degradation,

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dislodgement, or hazards of the existing structures. Further climate change impact analyses on the leased facilities will be assessed at the time the lease is up for renewal in 2022 and would be based on projected sea-level rise scenarios at that time.

Conclusion:

For all the reasons above, Commission staff believes the assignment and rent review of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 2.2 to ensure timely receipt of revenues and royalties from the use and development of State lands and minerals.
2. The assignment of lease and continuation of rent are not projects as defined by the California Environmental Quality Act because they are administrative actions that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, sections 15378, subdivision (b)(5).

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed assignment of lease and continuation of rent will not substantially interfere with the Public Trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the assignment of Lease No. PRC 7110.1, a General Lease – Recreational and Protective Structure Use, of sovereign land as described in Exhibit A attached and by this reference made a part hereof, from Pack, LLC - Series B, a Delaware Limited Liability Company (Assignor) to Pack LLC Series C (Applicant/Assignee); effective June 26, 2014.
2. Approve the revision of rent for Lease No. PRC 7110.1 from \$2,101 to \$1,027 per year; effective May 24, 2017.

EXHIBIT A

PRC 7110.1

LAND DESCRIPTION

A parcel of tide and submerged land, whether filled or unfilled, situate in the bed of the Atherton Cove (formerly the bed of the San Joaquin River), lying adjacent to Swamp and Overflowed Land Survey 444, patented December 19, 1867, County of San Joaquin County, State of California and more particularly described as follows:

All those lands underlying an existing uncovered floating boat dock, boat lift, jet-ski lifts, ramp, deck, and bulkhead lying adjacent to and southwesterly of those lands as described in "Exhibit A" of that Grant Deed, recorded December 29, 2009 in Document Number 2009-183949 in Official Records of said County.

ALSO TOGETHER any applicable impact area(s).

TOGETHER WITH all those lands underlying existing bank protection lying adjacent to said deed.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of the historic San Joaquin River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

PREPARED 4/03/17 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

APN
121-220-14

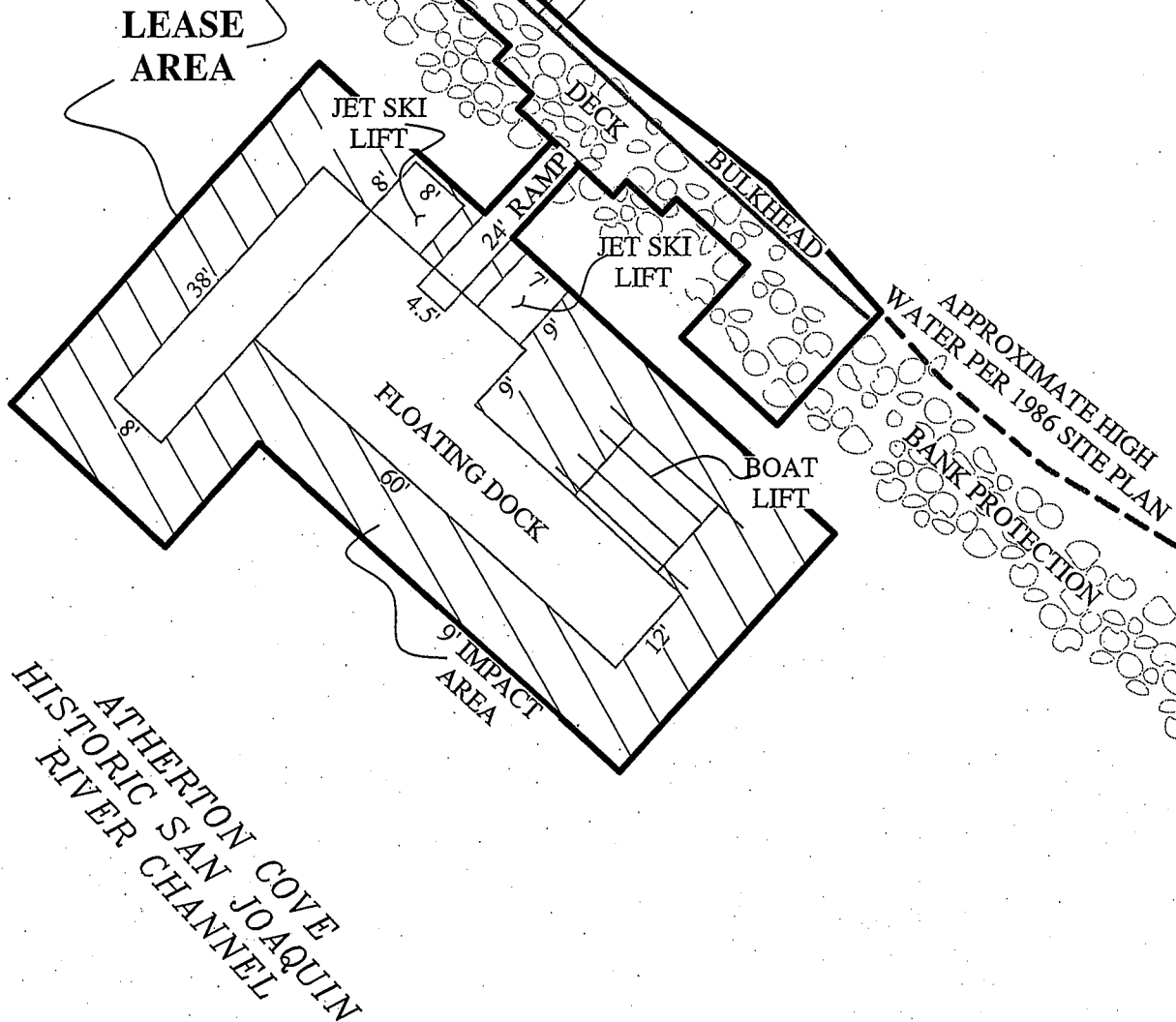


EXHIBIT A

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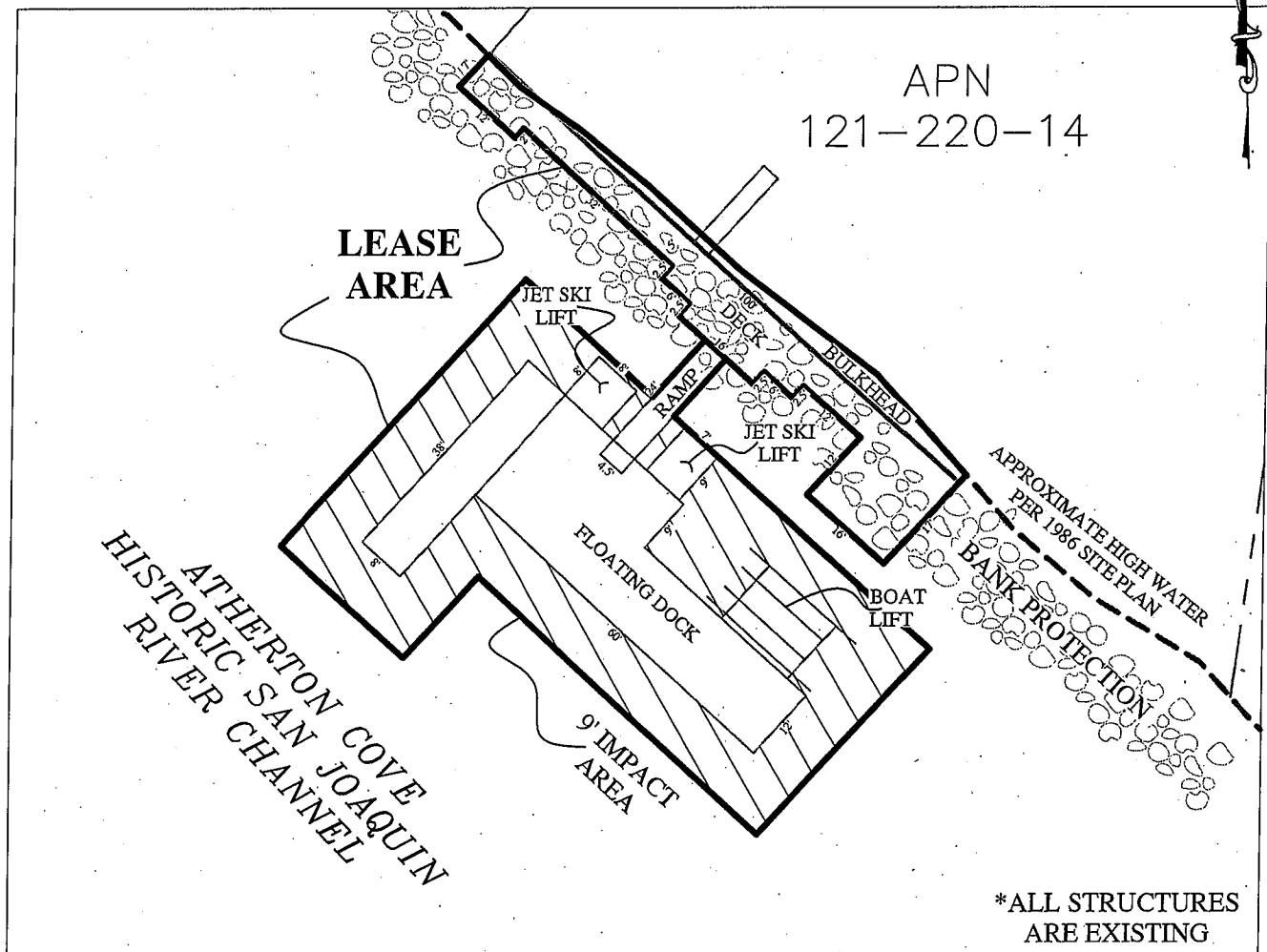
LAND DESCRIPTION PLAT
PRC 7110.1 - PACK LLC SERIES C
SAN JOAQUIN COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



2013 Cove Court, Stockton

NO SCALE

LOCATION

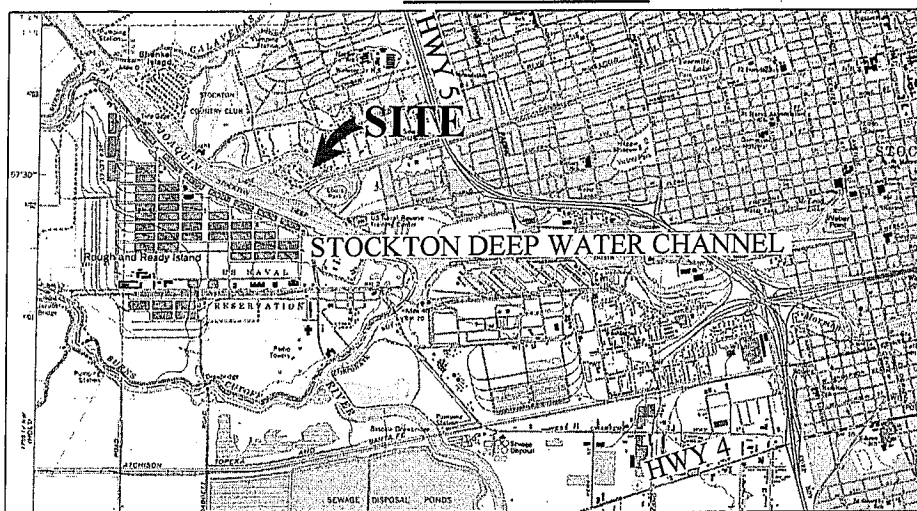


Exhibit B

PRC 7110.1
PACK LLC SERIES C
APN 121-220-14
GENERAL LEASE
RECREATIONAL &
PROTECTIVE STRUCTURE USE
SAN JOAQUIN COUNTY



MJP 4/03/17

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.